REMARKS

Claims 1-23 have been rejected under 35 U.S.C. § 103, as being unpatentable. Claims 1-10 and 15-23 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Vange, U.S. Patent No. 6,050,898 ("Vange"), in view of Rautila, U.S. Patent No. 6,524,189 B1 ("Rautila"). Claims 11-14 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over the combination of Vange and Rautila, and further in view of Finn, U.S. Patent Application 2002/0052239 ("Finn"). Applicant respectfully traverses these rejections for at least the following reasons.

A. Amendment after Final

Entry of this Amendment is respectfully requested on the ground that this Amendment places the application in condition for allowance. Alternatively, entry of this Amendment is respectfully requested on the ground that this Amendment places the claims in better form and condition for appeal. Furthermore, Applicant submits that any changes made to the claims herein do not require an additional search on the part of the Office, nor do any amendments made herein raise new issues with regard to the patentability of the claims now pending.

B. Rejections under 35 U.S.C. § 103(a)

Claims 1-10 and 15-23 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Vange, U.S. Patent No. 6,050,898 ("Vange"), in view of Rautila, U.S. Patent

No. 6,524,189 B1 ("Rautila"). Claims 11-14 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over the combination of Vange and Rautila, and further in view of Finn, U.S. Patent Application 2002/0052239 ("Finn"). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. §103(a) recites:

> [a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim elements. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j).

Regarding Claim 1, the office action sets forth that "the communication between the said game clients and the said game server [as taught in Vange] parallels to the processing scheme the Applicant is claiming." Office Action of February 18, 2005 at 10.

First, Applicant respectfully asserts that, if disclosures in Vange "parallels" Applicant's disclosures, the disclosures in Vange still do not "teach" Applicant's invention.

Second, the office action sets forth that the element of Claim 1 that states "receiving data...and detecting differences between said at least two communications devices" is taught in Vange, col. 7, lines 7-8. Office Action of February 18, 2005 at 2. The pertinent disclosure in Vange states the "game server 200 attempts to monitor the available bandwidth...between game server 200 and each respective game client 18." Vange, col. 7, lines 6-9. Applicant respectfully submits that Amended Claim 1 recites, in part,

> Alleviating a perception of said degradation between said received data from the first communication device and said second of said at last two communication devices by smoothing said communications services using at least one of said communications devices if differences detected exceed a given threshold.

Vange teaches monitoring "between ***game server*** 200 and...***game client***." Vange, col. 7, lines 8-9 (emphasis added). The present application is directed to "receiving data...and detecting differences between said at least two communications devices." A communication device is differential from a server in Applicant's claims. Because Vange is directed to monitoring between a server and a client, and the present application is directed to equalizing between two communication devices, Applicant respectfully submits the rejection based on Vange is traversed.

Applicant respectfully submits that amended claim 1 directed to "alleviating a perception of degradation" between at least two communication devices is distinct from "monitoring between game serve and game client," as taught in Vange. The configuration of the present invention identifies degradation directed to a communication device and substantially matches

within some threshold level, the degradation of each communication device, such as for game play, for example. In particular, the present invention alleviates a perception of degradation between a first communication device and a second communication device, for example. While this degradation may be equalized using the server in between, it is the relationship between the first device and the second device that is equalized. According to an aspect of the present invention and in order to achieve equalization, it may be necessary to degrade the communications between one of the devices and the server, for example if the other communications device is experiencing slow performance. Such an embodiment is wholly taught against in Vange, as Vange is directed to always optimizing the communication between a server and a communication device. The present application is directed to equalizing the third leg of a communication triangle by bidirectionally controlling the degradation on the other two sides of the triangle. Vange is directed to unidirectionally optimizing communications solely to the two sides of the triangle, and not to the third leg.

As taught in Vange, the degradation on a communication leg with a server is modified to achieve better performance. This is between the client and the server and does not in any way equalize virtual communication between communication devices. Even if Vange was extrapolated to include multiple legs between each communication device and a server, this still distinct from the present application, in that the present application is designed to equalize the communications between two communications devices irrespective of whether the legs to the server are equalized and optimized.

The Office Action further sets forth that "smoothing said communications services" is taught in Vange because Vange teaches "increasing/decreasing the bandwidth based off the said performance information." Office Action of February 18, 2005 at 3. While Vange discloses

determining optimal bandwidth by finding the largest bandwidth that will fit with the predetermined limit (col. 7, lines 39-49), Vange does not discuss "smoothing" communications, either specifically or by implication. Applicant, in the Specification, states that "if smoothing is required, the system initiates a smoothing algorithm,...snapping the user to the new state." Vange makes no mention of "initiating a smoothing algorithm," let alone "smoothing" or "snapping the user to the new state". Further, because Vange teaches server/client monitoring, smoothing of at least two devices to alleviate perceived degradation cannot be taught in Vange. Thus, Applicant respectfully submits that Claim 1, does not read on the reference in Vange.

Furthermore, the deficiencies in the teachings of Vange are not remedied by the addition of Rautila, nor does the present Office Action suggest that they are. Although Rautila teaches a multi-player game system using mobile telephone and game unit, Rautila does not teach alleviating a perception of said degradation between said received data from the first communication device and said second of said at last two communication devices by smoothing said communications services using at least one of said communications devices if differences detected exceed a given threshold. Because Vange, in view of Rautila, fail to disclose all elements of amended Claim 1, Applicant respectfully asserts that amended, independent Claim 1 is patentable.

Accordingly, Applicant submits at least Claim 1 is patently distinguishable over the prior art cited. Applicant further submits that Claims 2-10 and 15-23 are similarly distinguishable over the prior art cited by virtue of its ultimate dependency from a patently distinct base claim.

Applicant further submits that Claims 11-14 are similarly distinguishable over the prior art of record by virtue of their ultimate dependency from a patently distinct base Claim 1.

Conclusion

Applicant respectfully requests early and favorable action with regard to the present Application, and a Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,

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